IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9118 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJ. RURAL HOUSING BOARD NOW RACHANA KARMACHARI UNION
Versus
GUJARAT. RURAL HOUSING BOARD

Appearance:
MR RK MISHRA for Petitioner
MR KH BAXI for Respondent No. 1

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 21/03/2000

ORAL JUDGEMENT

The Gujarat Rural Housing Board Nav Rachana Karmachari Union, by filing this petition under Article 226 of the Constitution of India, has made the following prayers in paragraphs (A), (B) and (C) partly, of paragraph 12 of the petition:

(A). YOUR LORDSHIPS may be pleased to restrain the respondent authorities from making appointments of persons on deputation from other departments of the Government of Gujarat with the further direction that posts of Junior Assistants, Junior Auditors, Dy. Mamlatdar and Assistant Accountants cannot be filled in except by way of promoting the persons from the lower cadre to higher cadre.

(B). YOUR LORDSHIPS may be pleased to hold and declare that the action of calling persons on deputation from other departments is illegal, unconstitutional, against the rules and therefore the same practice be annulled and stopped by the respondent Board which affects adversely and curtails the promotional avenues of the employees of the Board.

(C).YOUR LORDSHIPS may be pleased to direct the respondent authorities, to operate the seniority list at Annexure 'A'. ..."

2. As regards the remaining prayer of paragraph (C) of releasing the promotions to higher grades is concerned, it is required to be stated that promotions can be granted in accordance with rules, provided there is a vacancy. The case of the respondent Board is that in view of economy measures adopted by the Board, they are not filling up the posts. However, learned advocate for the petitioner Mr. Mishra made a grievances that persons are brought on deputation basis in the same posts and therefore there is no substance in the grievances made by the Board.

3. When the Court is passing an order to the effect that the Board is restrained from calling persons on deputation unless the post is such that in the Board no suitable candidate is available, I think ends of justice would be met with if the aforesaid prayers insofar as it relates to calling persons on deputation are concerned, are granted. Mr. Baxi has stated that if the prayers as stated above are granted, there would be no objection.

4. In the circumstances, this petition is allowed in the terms of prayers 12 (A), (B) and (C) to the extent mentioned above. Rule made absolute accordingly. No order as to costs.

csm./ (B.C. PATEL, J.)